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MIGUEL ANGEL VERDUGO, ANTONIO JIMÉNEZ AND F. BORJA JORDÁN DE URRÍES*

Social and Employment Policies for People with Disabilities in Spain

Abstract: This article presents an analytic review of the major milestones in social and employment policies for people with disabilities in Spain in recent decades. It covers labour reforms, action plans for employment, the role of public bodies and disability organisations, and economic and employment protection. In addition, it examines the influence of European policies and guidelines on disability and employment, and their impact on Spanish social and employment policies. The article concludes that there are significant obstacles which need to be overcome. Such obstacles include insufficient political will, lack of information, and the danger of false controversies.

1. INTRODUCTION

The present Spanish democratic system dates back to the declaration of the current Constitution in 1978, which ended forty years of dictatorship. The Spanish Constitution acknowledges legal equality for all Spaniards without any discrimination on grounds of race, sex, religion, opinion or any other personal or social condition or circumstance. Moreover, it acknowledges rights to education and to work, mentioning specifically the need to develop employment, training and readaptation policies, with special attention paid to people with disabilities in terms of prevention, treatment, rehabilitation, and integration.

The Social Integration of Disabled People Act (LISMI),¹ passed in 1982, is the framework document that has inspired all subsequent social policies in the field of disability. It was sanctioned shortly after the International Year of Disabled Persons and just before the approval of the UN Programme of Action concerning Disabled Persons. The policy-makers were undoubtedly influenced by the international trend towards acknowledging the need for adequate management of the problems facing disabled persons. The Act shares with the Programme of Action concerning Disabled Persons and the subsequent 1993 UN Standard Rules on Equalisation of Opportunities for Persons with Disabilities the key principles of prevention, rehabilitation and integration.

* MIGUEL ANGEL VERDUGO, F. BORJA JORDÁN DE URRÍES, Universidad de Salamanca, Instituto Universitario de Integración en la Comunidad (INICO), Avenida de la Merced 109-131, 37005 Salamanca, Spain. E-mail: verdugo@gugu.usal.es, bjordan@gugu.usal.es
ANTONIO JIMÉNEZ, Consejo Económico y Social (CES), Calle de las Huertas 73, 28014 Madrid, Spain. E-mail: antonio.jimenez@ces.es

1 Act 13/1982, 7 April, Social Integration of Disabled People.

Hence, Spanish, European, and global directives have run parallel to each other in trying to combat the 'labeling' of disabled people in society, and in developing a multidimensional concept of disability which recognises both physical and mental conditions and both individual and environmental contextual factors.

2. SIGNIFICANT EVENTS IN THE LAST DECADE

2.1 *Labour Market Reforms*

The Government implemented general labour reforms in both 1994 and 1997. The 1994 reforms were set in the context of an employment crisis, and included measures for increased flexibility in hiring and firing conditions as well as tougher eligibility criteria for unemployment benefits. The consequence of this was an increase in labour market instability which ultimately led to new reforms within three years. The 1997 reforms followed the guidelines established in the *Agreements for Employment Stability and Collective Bargaining* endorsed by the main Spanish trade unions and business organisations. They implemented urgent measures intended to improve and regulate the labour market and to create social security and tax incentives which would promote permanent contracts and employment stability.

Measures for the promotion of permanent contracts for disabled persons had already existed in Spain, and these were not modified in the labour market reforms of the 1990s. They comprised: a 3,005 Euros subsidy to employers for each new contract (this became 3,906.5 Euros in 1999 as a result of the MTAS-CERMI agreement – see below), a reduction of company contributions to social security costs (70 per cent for those under 45 and 90 per cent for those over), and grants for employers of up to 901.5 Euros to fund job adjustment.

2.2 *National Action Plans for Employment*

There have been several National Action Plans for Employment developing continuously in Spain since 1995. In December 1994, the Essen Council established five key areas for labour market intervention with a view to reinforcing the campaign against unemployment. It urged Member States to design long-term programmes bearing in mind their economic and social circumstances. Moreover, in June 1995, the Cannes Council reiterated this appeal, requesting Member States to present their long-term programmes the following autumn.

In order to meet this request, the Spanish Government drafted its Programme for Employment in the Spanish Kingdom,² which was approved by the Spanish Cabinet on 15 September, 1995. In September 1997, after evaluation of the first programme, a

2 MINISTERIO DE TRABAJO Y ASUNTOS SOCIALES, *Programmea de Empleo del Reino de España* (Madrid, 1995).

Long-Term Programme for Employment within the Spanish Kingdom³ was put into effect. The new plan followed the original guidelines set out by the Essen Council and endorsed the directives of the Joint Report of the Dublin Council (December 1996) and the conclusions of the Presidency of the Amsterdam Council (June 1997). However, it was also influenced by the notion of adaptation to the European Convergence parameters, economic growth and its effects on employment, and the cooperation of official authorities, management and trade unions at territorial and sectoral levels. There were several specific measures relating to people with disabilities. These were articulated around three axes: the first was a focus on incentives to hire people with disabilities; the second was an incorporation of proposals presented by people with disabilities; and the third was an inclusion of projects to evaluate the LISMI.

The 1998 Action Plan for Employment within the Spanish Kingdom,⁴ following the directives established by the November 1997 Luxembourg Council, makes specific reference to people with disabilities in Directive 19 ('to favour the insertion of people with disabilities into the labour market'). This Directive includes measures to enhance the capacity for insertion into the labour market of people with disabilities, particularly young people with disabilities and women with disabilities seeking jobs. However, the most explicit references to the employment of people with disabilities can be seen in Directive 9 of the 1999 Action Plan⁵ ('to promote a market open to everyone'), which incorporates the principles of previous plans in addition to new ideas in developing activities specifically designed for this group.

The most recent plan developed has been the 2000 Action Plan for Employment in the Kingdom of Spain.⁶ In this plan, Directive 9 incorporates various actions and measures to promote the employment of people with disabilities. These include: fiscal bonuses for unemployed people with disabilities who choose self-employment; alternatives to the compulsory job quota; preferential participation of disabled workers in employment and training programmes; specialised work intermediation units for disabled workers; an extension of the Employment and Training Plan developed by the ONCE Foundation; and, finally, greater collaboration with sectoral associations.

2.3 Social Policies for People with Disabilities

December 1990 saw the approval of the Non-Contributory Pension Scheme Act⁷ in Spain. This established the right to a disability pension for every person who has a

3 MINISTERIO DE TRABAJO Y ASUNTOS SOCIALES, *Programmea Plurianual de Empleo del Reino de España*. (Madrid, 1997).

4 MINISTERIO DE TRABAJO Y ASUNTOS SOCIALES, *Plan de Acción para el Empleo del Reino de España 1998*. (Madrid, 1998).

5 MINISTERIO DE TRABAJO Y ASUNTOS SOCIALES, *Plan de Acción para el Empleo del Reino de España 1999*. (Madrid, 1999).

6 MINISTERIO DE TRABAJO Y ASUNTOS SOCIALES, *Plan de Acción para el Empleo del Reino de España 2000* (Madrid, 2000).

7 Act 26/1990, 20 December, Non-Contributory Pensions.

'disability percentage' equal to or higher than 65 per cent and who meets various requirements regarding nationality, residence, and low income. The Act represented the completion of a 'cycle' of policies in this area, which begun in 1983 with the implementation of the LISMI social and economic benefits scheme. During this cycle, public action on disability focused on the development of a universal economic protection scheme based on the right to benefits.

1992 was the Tenth Anniversary of the Programme of Action concerning Disabled Persons. It was also the year in which the first ten years of the LISMI were assessed, leading the United Nations to propose a short-term strategy for the year 2000 with the slogans 'a society for everyone' and 'from awareness to action'. In Spain, a positive evaluation of LISMI implementation was made by public administrations, association movements and Parliament in the area of economic protection, but there was also an indication that there was a need for renewed effort and more progress in disability policies, especially in the field of work integration. Thus, a comprehensive Action Plan materialised which was designed to provide a coordinated response to the needs of people with disabilities in Spain. Responsible for the drafting process here were the Institute for Migration and Social Services (IMSER-SO) and the Ministry of Labour and Social Affairs. The drafting process occurred between 1993 and 1996, with participation from every appropriate public agency and from most representative disability associations and with the commitment of every political party.

The Action Plan for People with Disabilities⁸ was eventually passed in 1996 and covers the period 1997-2002. It comprises five sector plans: Promotion of Health and Prevention of Impairments; Health Care and Total Rehabilitation; Mainstreaming and Special Education; Economic Integration and Participation; and Community Integration and Independent Life. These are enhanced and adapted using common strategies of equalizing opportunities, inter-territorial equality, institutional cooperation, citizen participation and support for quality, which are in turn developed according to the principles of promotion of rights, independent living, quality of life, equal opportunities, integration and normalisation.

The sector plan 'Economic Integration and Participation' draws together various proposals concerning the employment of disabled persons. Its objectives are to guarantee equal opportunities, to ensure quality recuperation that suits individual abilities and professional market realities, and to promote recuperation and integration rather than mere economic benefits. The sector plan comprises three different programmes: professional recovery, professional insertion and employment, and social and economic protection.

8 MINISTERIO DE TRABAJO Y ASUNTOS SOCIALES, INSTITUTO NACIONAL DE SERVICIOS SOCIALES, *Plan de Acción para las Personas con Discapacidad 1997-2002* (Madrid, 1996).

2.4 Disability Organisations and Social Negotiations

It was not until the 1990s that the major Spanish disability organisations began to play a significant policy development role. In 1993, the Spanish Council of Representatives of People with Disabilities (CERMI)⁹ was created. It is a defense and self-advocacy platform for people with disabilities that attempts to promote their full citizenship and rights equal to other members of the community. It comprises the ten main national disability organisations, integrating more than 2,000 smaller associations and institutions, in total representing a community of two and a half million people with disabilities.

The key areas of CERMI action to date have been employment, accessibility and barrier elimination, education, health, and social protection and welfare. CERMI has already played a part in some significant achievements, such as the Ministry of Labour and Social Affairs' agreement to establish the *Plan of Urgent Measures for Employment Promotion of People with Disabilities* (see below). It has also participated in the reform of the Income Tax Act, which has led to several improvements in fiscal conditions for people with disabilities. Moreover, CERMI has influence at an international level because it represents Spain at the European Disability Forum (EDF), presiding over its Employment Group. Through this it has promoted the creation of the Committee of Southern European People with Disabilities.

The 5/95 Report of the Social and Economic Council (CES)¹⁰ is a significant government document which arose from an initiative presented by CERMI about 'the situation of employment of people with disabilities and proposals for their reactivation'. This report led to the increased involvement of management and trade unions in reactivating employment of people with disabilities. Its conclusions highlight the low labour market participation and high unemployment rates of people with disabilities.¹¹ Consequently, it includes several recommendations regarding the need to update data collection about the situation of people with disabilities,¹² the creation of mediation services, the establishment of resources for specialised professional evaluation and training and the implementation of alternative measures for the fulfillment and modification of the regulations of Special Employment Centres.

9 COMITÉ ESPAÑOL DE REPRESENTANTES DE MINUSVÁLIDOS (CERMI), *El Valor de la Unidad* (Madrid, Fundación ONCE, 1999).

10 CONSEJO ECONÓMICO Y SOCIAL (CES), *Informe 5/95 Sobre la Situación del Empleo de las Personas con Discapacidad y Propuestas para su Reactivación* (Madrid, 1995).

11 In the book 'Empleo y Discapacidad' (Employment and Disabilities) edited by IMSER-SO in 1999, figures are given about employment of people with disabilities: 62.6 per cent is the unemployment rate of people with disabilities compared to 26.3 per cent of general population. Although the data is old (1995), the present rate of unemployment of the general population is 15.43 per cent according to the Labour Force Sample Survey of the last quarter of 1999 (Source: Instituto Nacional de Estadística, EPA 4º Trimestre 1999).

12 Such a recommendation has been followed and the National Institute of Statistics has carried out a survey about people with disabilities and their situation, updating previous data (1986). Data from the survey will be available mid 2000.

In October 1997, MTAS and CERMI signed an agreement aimed at fostering the employment of people with disabilities.¹³ The agreement included several of the proposals made by CERMI in December 1996. Together with some specific measures (*see below*), it also established MTAS' general commitment to seek advice from CERMI in the regulatory development of labour market reform as far as people with disabilities are concerned. This led to the establishment of a Joint Monitoring Committee. The most important issues in the agreement¹⁴ were: to reorganise the Royal Council for Prevention and Assistance to People with Disabilities; to create a National Council of People with Disabilities; to update records of persons with disability seeking employment; to implement specialised mediation action for workers with disabilities in public employment services; to adapt professional and occupational training courses; to amend work experience scheme contracts; to revise subsidies for indefinite contracts; and, finally, to redefine the model of Special Employment Centres.

Following on from the debate that gave rise to agreements for employment stability and collective bargaining towards the end of 1998, management organisations, trade unions and the Government signed an agreement on stable part-time employment. The purpose of this was to promote contracts which would provide new opportunities for groups that find it difficult to work full-time. The agreement also improved social protection by increasing its flexibility.

3. ECONOMIC AND EMPLOYMENT PROTECTION FOR PEOPLE WITH DISABILITIES IN SPAIN

3.1 *Economic Protection*

Economic benefits that substitute wage incomes in Spain can be categorised differently according to different points of view. On the one hand, they can be categorised according to the type of disability, i.e. differentiating between temporary and permanent disability. On the other hand, they can be categorised according to the work record of recipients, i.e. differentiating contributory benefits (where eligibility is

13 MINISTERIO DE TRABAJO Y ASUNTOS SOCIALES, *Acuerdo del Ministerio de Trabajo y Asuntos Sociales y el Comité Español de Representantes de Minusválidos por el que se Establece un Plan de Medidas Urgentes para el Empleo de las Personas con Discapacidad* (Madrid, 1997).

14 The 1998 National Employment Plan and the new National Plan for Occupational Training included some of these agreements, which have been implemented, when and as necessary, using adequate legal and regulatory rules (Act 66/97, 30 December, Fiscal, Administrative, and Social Measures; Ministerial Directive, 14-19-98, Recognition of Occupational Training Qualifications of People with Disabilities; Royal Decree 4/99, 8 January, increasing up to 650,000 pesetas the subsidy for hiring workers with disabilities; Royal Decree 427/99, 12 March, modifying regulatory norms of Special Employment Centres; Ministerial Directive, 17-VI-99, establishing the National Council of People with Disabilities, etc.).

based on classification of the recipient in the taxation provisions of the Social Insurance System and on the fulfillment of several contribution requirements) from non-contributory benefits (which are provided to those who have not contributed to the Social Insurance System or whose contributions are insufficient).

Table 1: Disability Economic Benefits, Spain, 1999

Benefit	Number of benefits (thousands)	Percentage of population above 16 years	Average amount Euros/month¹
CONTRIBUTORY SCHEME			
Permanent Disability²			
Partial Permanent Disability in the Work			
Accident Provisions	4,3	0.01	107.0
Total Permanent Disability	410,4	1.26	411.7
Absolute Permanent Disability	360,2	1.10	592.6
Great Disability, with a 50% increase	23,1	0.07	998.9
Family benefits with dependant children			
Under 18 with a disability of 33% or above	66,3	0.20	35.4
Over 18 with a disability of 65% or above	59,6	0.18	228.1
Over 18 with a disability of 75% or above and requiring third-party support	39,0	0.12	342.2
Total contributory scheme	962,9	2.94	2715.9
NON-CONTRIBUTORY PROVISIONS			
Non-contributory Disability LISMI's benefits			
Minimum income guarantee subsidy	234,2	0.72	245.5
Subsidy for third-party support	95,2	0.29	148.6
Illness or Disability Welfare Pension	18,2	0.06	58.4
Family Benefits for Dependant Descendant	54,2	0.17	149.9
Under 18 with a disability of 33% or above	5,4	0.02	35.0
Over 18 with a disability of 65% or above	7,5	0.02	228.1
Over 18 with a disability of 75% or above and requiring third-party support	5,0	0.02	342.2
Total non-contributory scheme	419,7	1.28	1207.7
TOTAL	1382,6	4.23	375.9

¹ 1 Euro = 166.386 pesetas

² Permanent disability pensions are called retirement pensions when the recipient reaches 65 without any kind of modification of the conditions of the benefits he has already obtained.

3.2 Tax Treatment

The 1999 Income Tax Act (IRPF)¹⁵ establishes a new regulation of taxes applicable to income earned from 1999. It includes an increase in tax reductions applicable to working people with disabilities. While there is a general reduction for people with disabilities which ranges between 2,253.8 Euros and 3,005 Euros depending on levels of earned and other income, the reduction can amount to between 3,944 Euros and 8,263.9 Euros, representing a considerable incentive for people with disabilities to enter employment.

3.3 Employment Policy

There are a number of employment opportunities for Spanish people with disabilities which vary according to individual capacity: Occupational Centres, which aim to provide occupational therapy and personal and social adjustment for those who cannot be integrated into other schemes; Special Employment Centres, which carry out productive work and ensure remunerative employment, regularly participating in market operations; Supported Employment, which is employment in the open market with ordinary companies but with the necessary supports inside and outside the workplace provided (there have recently been significant developments in supported employment);¹⁶ and Ordinary Employment, i.e. employment in normalised companies, the public sector and self-employment where most workers do not have disabilities.

In order to promote the labour integration of people with disabilities, several legal instruments for positive discrimination have been implemented. These have been designed to foster employment in the ordinary labour market. For example, employers can receive a subsidy of up to 3,906.5 Euros for every person with disabilities they take on indefinitely. In addition, there is a company tax subsidy for such employers of 4,808 Euros for each additional person with disabilities they take on.

Other existing measures include the reserve quota (2 per cent for companies with more than 50 workers) and its alternatives, measures for job adjustment, funding of instruments to prevent specific risks in the workplace and provisions to promote the access to employment in public agencies (adaptation of aptitude tests).

15 Act 40/98, 9 December, Income Tax and other Fiscal Regulations.

16 See M. A. VERDUGO, F. B. JORDÁN DE URRÍES, F. BELLVER, S. MARTÍNEZ, 'Supported Employment in Spain', *11 Vocational Rehabilitation*, 1998, pp. 223-232; and M.A. VERDUGO, F. B. JORDÁN DE URRÍES, F. BELLVER, 'Situación actual del Empleo con Apoyo en España', *29 Siglo Cero*, 1998, pp. 23-31.

It is noteworthy that incentive regulation for the promotion of Supported Employment is almost non-existent.¹⁷ Consequently, actions in this area are mainly financed through European funds and donations from associations and foundations. However, the announcement of aids and subsidies for the implementation of programmes aimed at normalised integration of people with disabilities seems to forecast future co-financing of innovative projects which would ensure transition from sheltered to ordinary employment, such as supported employment and other methods.

4. THE INFLUENCE OF EUROPEAN POLICIES AND DIRECTIVES

The influence of European directives and policies in Spain as regards disabilities has been conditioned by several internal factors: Spain's late joining of the European Community in 1986 (four years after the proclamation of the LISMI) and the subsequent pro-European enthusiasm after integration; the coincidence of the process of integration in Europe with political and administrative decentralisation in Spain; and the incipient development of an association movement which in the 1990s organised itself around CERMI and accomplished a high level of representation.

At a formal level, the influence of European policies and directives is undeniable as regards the elaboration of national disability policies, particularly in the area of employment. This influence has become more obvious with the development, since the November 1997 Extraordinary Council on Employment of Luxembourg, of the *Employment Guidelines for 1998*.¹⁸ It is difficult to determine whether or not this influence at a formal level has been replicated on practical and material levels. Although, in their presentation of measures aimed at enhancing labour integration of people with disabilities, the *National Action Plans for Employment* stress factors related to active policy, promotion of equal opportunities and the fight against discrimination, it is arguable that, to a large extent, there is a mere replication of actions which were already being carried out, with little new innovation.

Even at the formal level, it has not been easy to see a direct, independent influence of European policies on employment of people with disabilities in Spain until recently. The reason for this might be the fact that, until July 1996, such policies had

17 The Spanish Parliament unanimously approved a Green Paper urging the Government to regulate Supported Employment and Workplaces. The IMSERSO has elaborated the draft of the Royal Decree on Supported Employment, which was forwarded to the General Secretary for Employment on 11 February. When this paper was being written it had not yet been published. The Programme for Workplaces is also awaiting development. (Interview with María Dolores Cano Ratia, General Director of INEM. Minusval, no. 118, May 1999. pp. 8-10).

18 *The 1998 Employment Guidelines*. Council Resolution of 15 December 1997.

not been formulated explicitly.¹⁹ Given this lack of explicit policies, formal documents published before this show a diffuse influence that cannot be differentiated clearly from the work of other international bodies which had explicitly presented their guidelines for disability policies. Consequently, the text of the *Action Plan for People with Disabilities* states that 'several proposals were formulated ... aimed at adapting our reality to the most significant recommendations of International Bodies (United Nations, European Union, Council of Europe, ILO, etc.)'.²⁰ In the 'General Aspects' section of the plan, there are several references to international bodies: five to the United Nations; three to the Council of Europe; and three to the European Union.²¹ In the 'Participation and Integration in Economic Life' section, there is a clearer presence of European sources: seven references²² compared with six to the ILO and two to the Council of Europe.

Another document,²³ published on the 20th anniversary of the creation of the Royal Council for Prevention and Assistance to People with Disabilities, confirms this idea. In the 'Major Milestones of International History of Disabilities in recent years' section, the document cites 29 relevant events, 19 of which are international. Only five of them have a direct relevance to European Community programmes or documents: the HELIOS action programmes; the HORIZON initiatives (with financial support from the European Social Fund); the TIDE initiative; the White Paper on European Social Policy; and the Commission's Communication of July 1996. Hence, three refer to European Community programmes and initiatives which are directly related to disabilities and which have meant a significant flow of resources being channeled into projects and actions in the field of disability, and a promotion of the exchange of examples of best practice.

19 COMMISSION OF THE EUROPEAN UNION, *Communication on Equality of Opportunity for People with Disabilities – a New Community Disability Strategy*. COM (96) 406, 07/30/1996.

20 MINISTERIO DE TRABAJO Y ASUNTOS SOCIALES, INSTITUTO NACIONAL DE SERVICIOS SOCIALES, *Plan de Acción para las Personas con Discapacidad 1997-2002* (Madrid, 1996). p. 15.

21 The references are to the Maastricht Treaty, the Green Paper on European Social Policy and the decision approving the HELIOS II Programme. pp. 219-221.

22 The references are to the White Paper on European Social Policy, the Commission's Medium-Term Social Action Programme (1995-97), The Council resolution on permanent professional training, June 1989, a report by the CEDEFOP on partially-sheltered employment for people with disabilities in EEC countries, a Commission's report on sheltered employment in the Community, the White Paper on Growth, Competitiveness and Employment, and the Commission's report on employment in Europe 1994. pp. 225-228.

23 'REAL PATRONATO DE PREVENCIÓN Y ATENCIÓN A LAS PERSONAS CON MINUSVALÍA' in *Realizaciones sobre discapacidad en España. Balance de 20 años* (Madrid, 1997).

4.1 *Action Programmes and Community Initiatives on Disabilities*

The HELIOS programmes and other related initiatives on disability, particularly the Employment-HORIZON initiative, have been the most obvious way through which European policies and guidelines have influenced Spanish policies and action in the field of disability. There have been some criticisms of these initiatives, but these do not deny their influence on the implementation of new methods of action and their contribution to a better understanding of the needs of people with disabilities. Moreover, such initiatives have promoted an exchange of experiences between Member States and have facilitated institutional development of organisations through new programmes and lines of action and through the opening of new spaces for collaboration and dialogue with public bodies.

The development of projects within these initiatives has contributed to a growing awareness of 'intermediate agents' (civil servants, professionals, association managers and members, trade unionists, businessmen etc.). Moreover, the creation of various associations and networks has led to a favorable environment for the expansion of new approaches and methods of action put forward by the EU. The ability of the initiatives to bring together public agencies, associations of people with disabilities and social and economic agents has been clear.²⁴ Transmissions of project findings and working group conclusions have also played a significant role here. This general strategy of association, transnationality, and exchange of knowledge and experiences has been the key feature of European programmes and initiatives, and has inspired similar actions at the national level. There have been association networks created and useful practices replicated in every Spanish autonomous policy community.

4.2 *The Communication on Equality of Opportunity for People with Disabilities*

A clear conditioning factor in the extent of influence of European guidelines has been the lack until recently of an authentic proposal for a coherent disability policy. This gap is beginning to be filled by the Communication that was adopted by the European Commission on 30th July 1996, which defines the European disability strategy. The strategy is based on the helpful experiences of the different HELIOS Programmes, and has been informed by recent international trends. The Communication tries to overcome the limitations of previous political responses to disability issues, endorsing a new approach based on the idea of equality of opportunities, non-discrimination, rights, normalisation, inclusion, and full participation. It also endorses the approach evident in the *United Nations Standard Rules*²⁵ and

24 An appropriate example of this is the Handynet initiative that contributed to a more direct cooperation between companies producing and selling propeutics, disability organisations and the National Centre for Personal Autonomy and Technical Aids.

25 UNITED NATIONS, *Standard Rules on Equalisation of Opportunities for Persons with Disabilities*, Resolution of the General Assembly of the United Nations 48/46 of 20 December 1993.

the Council of Europe resolution on a *Coherent Policy for the Integration of Persons with Disabilities*,²⁶ that is, priority of integration over adaptation (a more limited objective) as crucial for the insertion of people with disabilities into active society

The Commission's European strategy for disabilities, based on the Communication and its subsequent developments, has given public administration, disability organisations and social partners a much more coherent framework for their efforts. The Communication is well known and used in Spain both by public bodies and by disability organisations. It was included as an appendix in the book 'The Situation of Employment of People with Disabilities in Spain: Proposal for Its Reactivation',²⁷ which has been distributed to the different sector organisations. Moreover, the entire text can be accessed on the Internet, not only through the EU website but also through specialised Spanish website on disability.²⁸ For those responsible for the development and implementation of Spanish public policies, participation in the *High Level Group of Member States' Representatives on Disability* and involvement in the development of subsequent working documents²⁹ has allowed them to keep a close eye on European policy advances on disability and to transfer them to their work in Spain. As far as disability organisations are concerned, the approach endorsed in the Communication and its support for the European Disability Forum have provided an important backing but also a challenge that Spanish disability movements have been ready to assume.

In line with this, both public bodies and disability organisations are following the new European guidelines on disability closely. The new European strategy is systematically referred to in the process of justifying regulations, programmes and measures, regardless of their mutual consistency. Similarly, criticisms levelled at the actions of public agencies and/or non-government organisations with regard to disability are often based on a lack of consistency with European guidelines.

4.3 *The Treaty of Amsterdam Non-Discrimination Clause*

The receptiveness of intermediate agents to European influence can to a large extent be explained by the EU assumption that a more active role in the development of

26 COUNCIL OF EUROPE, *Resolution R(92)6 on Coherent Policy for the Integration of Persons with Disabilities* (Strasbourg, Council of Europe, 1992) (Edited in Spanish by INSERSO, in 1993).

27 VARIOUS AUTHORS, *La Situación del Empleo de las Personas con Discapacidad en España: Propuestas para su Reactivación* (Madrid, Escuela Libre Editorial, 1998).

28 SID (<http://sid.usal.es>); Discapnet (<http://www.discapnet.es/>); and the website of the EU/US Conference 'Harnessing the Information Society to Raise Employment Levels for People with Disabilities' (<http://www.conf-us-ue-disability.org/>).

29 We are specifically referring to the following documents: *Raising Employment Levels of People with Disabilities. The Common Challenge* (1998); *Compendium on Member States' Policies on Equality of Opportunity for People with Disabilities* (1998); *Mainstreaming Disability within EU Employment and Social Policy* (1999).

disability policies would imply considerable progress. The EU realises that it has been and still is the authority most suited to give new impetus to national disability policies.

Organisations representing people with disabilities raised their voices together with those demanding the incorporation into the Treaties of a legal base which would ensure adequate interpretation of the concept of citizenship and would guarantee that European people with disabilities would be empowered with the rights attached to citizenship.³⁰ Eventually, a non-discrimination clause was incorporated into the Treaty of Amsterdam. Although disability organisations and the European Parliament had proposed a more developed initiative, they have welcomed the clause as a significant step forward, for it means that EU responsibility for fighting discrimination on the grounds of disability has now been clarified.³¹

4.4 *The European Employment Strategy*

The significance of the Treaty of Amsterdam in terms of political guidelines on disability does not lie solely in its non-discrimination clause, for it also played a crucial role in the incorporation of an Employment section into the Treaty on European Union, which in turn provided the legal basis for the European Employment Strategy. The first *Employment Guidelines*, adopted by the Commission in December 1997, led to the development of the *National Action Plans for Employment* for 1998. The Guidelines included a specific reference (Directive 19) to the integration of people with disabilities into the ordinary labour market, as part of a general strategy of equality of opportunity. The directives in the 1999 and 2000 Action Plans have retained that specific reference.

In Spain, the National Action Plans for Employment for 1998, 1999 and 2000 have all incorporated certain measures to enhance levels of insertion into the labour market of people with disabilities, in compliance with European directives. These measures largely overlap with the proposals of the MTAS-CERMI agreement and seek to modify regulations aimed at increasing employment opportunities of workers with disabilities in sheltered employment and at flexibilisation of the conditions of Special Employment Centres; to give new impetus to programmes promoting employment in the ordinary labour market, including part-time employment and self-employment; to sign specific agreements with organisations in order to create a

30 The Spanish Council of Representatives of People with Disabilities (CERMI) submitted to the Spanish Government and the Commission its proposals about European social policies on disabilities. The proposals were included in a working document developed by Santiago Muñoz Machado and Rafael Lorenzo (see previous reference).

31 A. RODRÍGUEZ CASTEDO, 'Política Social y Empleo de las Personas con Discapacidad en la Unión Europea', in VARIOUS AUTHORS, *La situación del Empleo de las Personas con Discapacidad en España: Propuestas para su Reactivación* (Madrid, Escuela Libre Editorial, 1998).

specialised job centres; and to carry out labour market studies to detect new business opportunities and novel initiatives and to develop active policies. The efficacy of these measures – however modest – has been perceptible, but it remains clear that there is a need for a new impetus for the promotion of ordinary employment.

The Spanish Government committed itself to the development of a Social and Work Insertion Act in the *Spanish National Action Plan for Employment 1999*. This Act would have to establish an appropriate network for the promotion of labour insertion of people who are excluded or at risk of exclusion. The Government has also established certain lines of action in compliance with Directive 9. These include: adjustment of training to the characteristics and needs of students with disabilities; the boosting of specialized services for employment intermediation; support for the creation and continuation of job contracts in Special Employment Centres; regulation of new forms of semi-sheltered employment (supported employment and workplaces); provision of support and incentives to enter into new contracts in the ordinary market; establishment of alternatives to reserve provision; and promotion of more flexible measures for workers with disabilities to gain access to public employment.

Although it is still too early to evaluate the achievements of the Spanish Government in relation to its action plans, data about subsidised contracts allows us to say now that certain objectives will be achieved. January 2000 saw the ratification of the Royal Decree 27/2000, which establishes alternative measures in compliance with the reserve quota. Representatives of people with disabilities have welcomed the Decree.³² On the other hand, however, the draft of the Sociolaboural insertion law has still not been submitted to Parliament in spite of the fact that the Ministry of Labour and Social Affairs has reached agreement on the text with all the major social organisations involved. Moreover, the Government is not expected to immediately pass the regulations on supported employment and workplaces.

Lastly, the 1999 and 2000 *National Plans for Employment* also indicate the commitment of the National Organisation of Spanish Blind People (ONCE) to create 20,000 jobs and to train 40,000 people with disabilities in the next ten years. This formidable commitment is explained by the fact that ONCE has been given a special tax authorisation that allows it to organise a new lottery game, significantly increasing its funding.

32 Number 3 (March 2000) of the magazine *Empleo Especial*, edited by the ONCE Foundation, includes an appendix about the Decree on alternative measures to compliance with reserve provision (*Empleo Especial*, 3, 2000, p. 14-30).

5. THE IMPACT ON SPAIN OF EUROPEAN SOCIAL AND EMPLOYMENT POLICIES RELATING TO DISABILITY

Although we might say that the influence of European guidelines on the development of disability policies in Spain is considerable, this does not imply that its impact is as significant as that influence. This is because changes in laws and regulations, programmes and measures implemented, and political practices with regard to disability do not automatically follow European guidelines.

The main obstacle in the evaluation of the actual impact of European guidelines on disability policies is the lack of systematic, updated, and appropriately disaggregated statistical data on the situations and characteristics of people with disabilities and on their participation in employment and in job promotion measures. An additional difficulty lies in the fact that, to a great extent, European guidelines and national policies develop more or less coincidentally and independently of each other. European guidelines do not arise in a vacuum – they are the product of shared experiences of Member States and are part of globally evolving trends regarding the conceptualisation of disability and political responses to the needs of disabled people. Thus, it is almost, if not totally impossible and pointless, to isolate the effects of European influence.

By contrast, it is very useful to examine and create an inventory of the barriers hindering that influence and its translation into effective changes in social and employment conditions of disabled people. Here we outline the three barriers we believe to be fundamental: insufficient political will and consequent insufficient fund provision; the danger of false controversies; and the lack of systematic and updated information about the characteristics and the needs of disabled people and their employment situation.

5.1 *Insufficient Political Will*

Political will does not become apparent in declarations of principles, but rather in resource allocation. Thus, the best indicator of political commitment to social policies is through an evaluation of levels of social expenditure. Since 1993, the reduction of social expenditure in Spain as a percentage of GDP has been a clear illustration of an imbalance between formal statements and actual achievement.³³

In a recent report³⁴, the European Commission has stated that Spain, like most other Member States, has not tackled the need to implement legal measures to fight

33 In 1993, expenditure on social protection in SEEPROS terms amounted to 24.4 per cent of GDP. In 1998 (raw data), it had decreased to 21.6 per cent of GDP, 17.8 trillion pesetas, 1.33 is allocated to the 'disability' function. (*Anuario de Estadísticas Laborales y de Asuntos Sociales*, 1998).

34 EUROPEAN COMMISSION, *Joint Employment Report for 1999* (Brussels, European Commission, 1999). (electronic text on the Internet).

discrimination. Although there has been a significant increase in active measures to promote the employment of disabled people, Spanish initiatives have been somewhat fragmented and have not appropriately translated the political commitment into a shift from an approach based on dependence to more active and preventive labour market policies.

Some of the regulatory and legislative measures that played a key role in the strategy developed in the *National Plan for Employment* 1999 (such as regulation of supported employment, workplaces in companies, and insertion companies) have reached a deadlock due to a lack of the political will or consensus needed to implement them. Employment promotion policies for disabled people that have been implemented since the MTAS-CERMI agreement have experienced an important thrust. However, this would be counter-productive if such a momentum were to be brought to a halt in such a short period. It would also be counter-productive if the responsibility for such an impetus were to be handed over to initiatives exclusively developed within the sector, such as the Plan 20,000/40,000 of the ONCE and the ONCE Foundation.

5.2 *The Danger of False Controversies*

There have been certain obstacles to the approval of several regulatory initiatives which have arisen from a lack of consensus on various issues, such as the balance between measures to protect special employment and to promote ordinary employment, funding sources, and the degree to which 'positive discrimination' is compatible with market freedom and competition. The reactivation of employment of disabled people should not fail as a result of such fruitless and surely unfounded controversies, nor should mistaken interpretations of European guidelines, such as those arising from an effort to strike a balance between active and passive policies, affect overall objectives. Statistical indicators show that more resources are allocated to special employment protection than to ordinary employment promotion. As far as this is the result of a reduced number of contracts offered to persons with disabilities who have taken advantage of incentives, it can be concluded that incentives and subsidies are not sufficient to overcome barriers hindering access to ordinary employment for disabled people, and thus that they must be supplemented with other measures. However, it would be inappropriate to conclude that there should be a reduction in special employment protection measures, for these play a significant role for those who find it difficult to become integrated in ordinary employment. A different issue is the question of what kind of special employment scheme should be implemented: how the rights of workers in Special Employment Centres should be guaranteed, and which measures should be adopted to promote the transition to ordinary employment – one of the crucial inadequacies of the Spanish special employment scheme.

It seems clear that all interest groups share the common objective of reducing passive employment policies for disabled people. Nevertheless, this has not so much been a guiding principle as an instrumental one. There is general agreement that the percentage of GDP spent on active policies should be significantly increased.

However, it would clearly be unacceptable, and indeed impossible, to eliminate protection for those who find it hard to make ends meet as a result of their lack of activity. In the struggle against unemployment, resources for active policies should be increased not only in the national budget but also in the EU budget.

Modifications to regulations of economic benefits for permanent disabilities allow us to assert that, in seeking a balance between active and passive policies, policy makers have opted for a prudent alternative. Thus, current protection levels have not been jeopardised. Modifications have attempted to facilitate access to the labour market by beneficiaries of non-contributory pensions. The first modification here was included in the Second Additional Disposition of Law 10/1994 on urgent measures for employment promotion. The law stipulates that anyone who has the right to a non-contributory disability pension and who loses that right as a result of an apprenticeship contract should automatically regain the right. This measure has now been extended to all other economic activity carried out by the beneficiary of a non-contributory disability pension.³⁵ The measure has also been applied to the Subsidy for Minimum Income of the LISMI.³⁶

5.3 *Lack of Information*

In spite of all the efforts described above, policies aimed at creating a more equitable labour market have been consistently hindered by a lack of information about the needs of disabled people. Assessment of their needs tends to be almost impossible due to the lack of systematic and periodic data about their employment conditions.

The report of the Economic and Social Council (CES) on the employment conditions of people with disabilities pointed at such a lack of information. It stated that the periodic compilation of quantitative and qualitative data about disabled people, their integration into economic life and their participation in the labour market is essential to ensure awareness of the scale of the problem, and to allow the government to take appropriate measures. Such data would also be fundamental to the monitoring and evaluation of implemented measures. The CES gave high priority to an inquiry on disability, which has only very recently been carried out (results will be published in April 2000). It also recommended that specific data be included on the employment of disabled people in the Spanish Labour Force Sample Survey.

35 Act 13/1996, Fiscal, Administrative and Social Measures, sec. 90.

36 Act 2/1997, March 24, Automatic Recovery of Subsidy for Minimum Income.

6. CONCLUSION

In recent decades, employment and social protection policies for Spanish people with disabilities have been significantly developed within the framework of international trends and, more recently, European guidelines. The lack of specific and systematic statistical information makes it difficult to determine to what extent the clear influence of European guidelines at the formal level is having an actual impact on the improvement of employment and quality of life of disabled people. However, the data that does exist shows a downward trend in social protection expenditure and the stagnation of certain important laws and regulatory initiatives. Thus, it seems clear that it is imperative both for governments to show a greater political commitment, and for there to be greater consensus between the social partners if employment promotion policies for disabled people are to develop further.

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